

Amendment No. 1 to HB0049

Ramsey
Signature of Sponsor

AMEND Senate Bill No. 529

House Bill No. 49*

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 63-7-123(b)(2), is amended
by deleting the subdivision and substituting instead the following:

(2)

(A) The nurse practitioner who holds a certificate of fitness shall be authorized to prescribe and/or issue controlled substances listed in Schedules II, III, IV and V of title 39, chapter 17, part 4 upon joint adoption of physician supervisory rules concerning controlled substances pursuant to subsection (d).

(B) Notwithstanding subdivision (b)(2)(A), a nurse practitioner shall not prescribe schedules II, III and IV controlled substances unless such prescription is specifically authorized by the formulary or expressly approved after consultation with the supervising physician before the initial issuance of the prescription or dispensing of the medication.

(C) A nurse practitioner who had been issued a certificate of fitness may only prescribe or issue a schedule II or III opioid listed on the formulary for a maximum of a non-refillable, thirty-day course of treatment unless specifically approved after consultation with the supervising

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physician before the initial issuance of the prescription or dispensing of the medication. This subdivision (C) shall not apply to prescriptions issued in a hospital or a nursing home licensed under title 68.

SECTION 2. Tennessee Code Annotated, Section 63-19-107(2)(B), is amended by deleting the subdivision and by substituting instead the following:

(B)

(i) A physician assistant to whom the authority to prescribe legend drugs and controlled substances has been delegated by the supervising physician shall file a notice with the committee containing the name of the physician assistant, the name of the licensed physician having supervision, control and responsibility for prescriptive services rendered by the physician assistant and a copy of the formulary describing the categories of legend drugs and controlled substances to be prescribed and/or issued, by the physician assistant. The physician assistant shall be responsible for updating this information;

(ii) Notwithstanding any other rule or law, a physician assistant shall not prescribe Schedules II, III and IV controlled substances unless such prescription is specifically authorized by the formulary or expressly approved after consultation with the supervising physician before the initial issuance of the prescription or dispensing of the medication;

(iii) Any physician assistant to whom the authority to prescribe controlled drugs has been delegated by the supervising physician may only prescribe or issue a schedule II or III opioid listed on the formulary for a maximum of a non-refillable, thirty-day course of treatment, unless specifically approved after consultation with the supervising physician before the initial issuance of the prescription or dispensing of the medication. This subdivision (iii) shall not apply to prescriptions issued in a hospital or a nursing home licensed under title 68;

SECTION 3. Tennessee Code Annotated, Title 63, Chapter 7, Part 1, is amended by adding the following as a new section:

63-7-128.

(a) No later than August 31st of each year, the department of health shall:

(1) Identify the top fifty (50) prescribers of controlled substances in the previous calendar year from the data available in the controlled substances monitoring database established pursuant to title 53, chapter 10, part 3; and

(2) Send a letter through registered mail to each advanced practice nurse identified in subdivision (1) and such nurse's supervising physician as found on the provider's profile established in title 63, chapter 51, that notifies the supervising physician that the prescriber has

been identified pursuant to subdivision (1) and includes the following information:

(A) The significant controlled substances prescribed by the advanced practice nurse;

(B) The number of patients prescribed these controlled substances by the advanced practice nurse;

(C) The amount of controlled substances prescribed by patient and in total during the relevant calendar year; and

(D) Any other relevant information sought by the department.

(b)

(1)

(A) Each supervising physician of the advanced practice nurse shall submit to the committee for the controlled substance monitoring database within ten (10) calendar days through registered mail or electronic mail an explanation justifying the amounts of controlled substances prescribed in the previous calendar year by the advanced practice nurse demonstrating that these amounts were medically necessary for the patients treated and that the supervising physician had

reviewed and approved the prescribing amounts.

The committee shall consider the prescriber's specialty, practice location and patients' ages and disease states to make a determination as to whether the explanation of the supervising physician for the prescribing habits of the advanced practice nurse of controlled substances is justifiable.

(B) The department of health is authorized to develop a model form to assist the supervising physician in completing the explanation required by this subsection (b).

(2) If the committee is not satisfied with any explanation by the supervising physician, it shall communicate via registered mail such concerns to the supervising physician. The supervising physician shall have ten (10) calendar days to attempt to rectify the committee's stated concerns.

(3) If the committee remains unsatisfied after receiving a justification pursuant to subdivision (2), the committee may submit its concerns to the department of health for investigation.

(c) All data and correspondence under this section shall be confidential and shall not be considered to be a public record for purposes of title 10, chapter 7.

(d) All correspondence can be used by a department of health investigation to develop a case against the prescribing advanced practice nurse and the supervising physician.

(e) The failure of a physician supervisor of an advanced practice nurse to respond to the department's request for information in a timely fashion may be a cause for disciplinary action by the physician's licensing board and may include a penalty of up to one thousand dollars (\$1,000) per day for failure to respond or failure to respond in a timely manner.

(f) All correspondence shall be maintained for five (5) years and kept organized by prescriber so that information on a prescriber who appears on multiple lists compiled pursuant to subsection (a) may be aggregated.

SECTION 4. Tennessee Code Annotated, Title 63, Chapter 19, Part 1, is amended by adding the following as a new section:

63-19-116.

(a) No later than August 31st of each year, the department of health shall:

(1) Identify the top fifty (50) prescribers of controlled substances in the previous calendar year from the data

available in the controlled substances monitoring database established pursuant to title 53, chapter 10, part 3; and

(2) Send a letter through registered mail to each physician assistant identified in subdivision (1) and such physician assistant's supervising physician as found on the provider's profile established in title 63, chapter 51, that notifies the supervising physician that the prescriber has been identified pursuant to subdivision (1) and includes the following information:

(A) The significant controlled substances prescribed by the physician assistant;

(B) The number of patients prescribed these controlled substances by the physician assistant;

(C) The amount of controlled substances by patient and in total during the relevant calendar year; and

(D) Any other relevant information sought by the department.

(b)

(1)

(A) Each supervising physician of the physician assistant shall submit to the committee for the controlled substance monitoring database within ten (10) calendar days through registered

mail or electronic mail an explanation justifying the amounts of controlled substances prescribed in the previous calendar year by the physician assistant demonstrating that these amounts were medically necessary for the patients treated and that the supervising physician had reviewed and approved the prescribing amounts. The committee shall consider a prescriber's specialty, practice location and patients' ages and disease states to make a determination as to whether the explanation of the supervising physician for the prescribing habits of the physician assistant of controlled substances is justifiable.

(B) The department of health is authorized to develop a model form to assist the supervising physician in completing the explanation required by this subsection (b).

(2) If the committee is not satisfied with any explanation by the supervising physician, it shall communicate via registered mail such concerns to the supervising physician. The supervising physician shall have ten (10) calendar days to attempt to rectify the committee's stated concerns.

(3) If the committee remains unsatisfied after receiving a justification pursuant to subdivision (2), the committee may submit its concerns to the department of health for investigation.

(c) All data and correspondence under this section shall be confidential and shall not be considered to be a public record for purposes of title 10, chapter 7.

(d) All correspondence can be used by a department of health investigation to develop a case against the prescribing physician assistant and the supervising physician.

(e) The failure of a physician supervisor of a physician assistant to respond to the department's request for information in a timely fashion may be a cause for disciplinary action by the physician's licensing board and may include a penalty of up to one thousand dollars (\$1,000) per day for failure to respond or failure to respond in a timely manner.

(f) All correspondence shall be maintained for five (5) years and kept organized by prescriber so that information on a prescriber who appears on multiple lists compiled pursuant to subsection (a) may be aggregated.

SECTION 5. Tennessee Code Annotated, Title 63, is amended by adding the following as a new section to be appropriately designated:

(a) No later than August 31st of each year, the department of health shall:

(1) Identify the top fifty (50) prescribers of controlled substances in the previous calendar year from the data available in the controlled substances monitoring database established pursuant to title 53, chapter 10, part 3; and

(2) Send a letter through registered mail to each physician identified in subdivision (1) that notifies the prescribing physician that the physician has been identified pursuant to subdivision (1) and includes the following information:

(A) The significant controlled substances prescribed by the physician;

(B) The number of patients prescribed these controlled substances by the physician;

(C) The amount of controlled substances by patient and in total during the relevant calendar year; and

(D) Any other relevant information sought by the department.

(b)

(1)

(A) Each physician receiving a letter shall submit to the committee for the controlled

substance monitoring database within ten (10) calendar days through registered mail or electronic mail an explanation justifying the amounts of controlled substances prescribed in the previous calendar year by the physician demonstrating that these amounts were medically necessary for the patients treated. The committee shall consider a physician's specialty, practice location and patients' ages and disease states to make a determination as to whether the explanation of the physician for prescribing large quantities of controlled substances is justifiable.

(B) The department of health is authorized to develop a model form to assist the supervising physician in completing the explanation required by this subsection (b).

(2) If the committee is not satisfied with any explanation by the physician, it shall communicate via registered mail such concerns to the physician. The physician shall have ten (10) calendar days to attempt to rectify the committee's stated concerns.

(3) If the committee remains unsatisfied after receiving a justification pursuant to subdivision (2), the

committee may submit its concerns to the department of health for investigation.

(c) All data and correspondence under this section shall be confidential and shall not be considered to be a public record for purposes of title 10, chapter 7.

(d) All correspondence can be used by a department of health investigation to develop a case against the physician.

(e) The failure of a physician to respond to the department's request for information in a timely fashion may be a cause for disciplinary action by the physician's licensing board and may include a penalty of up to one thousand dollars (\$1,000) per day for failure to respond or failure to respond in a timely manner.

(f) All correspondence shall be maintained for five (5) years and kept organized by prescriber so that information on a prescriber who appears on multiple lists compiled pursuant to subsection (a) may be aggregated.

SECTION 6. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 7. This act shall take effect July 1, 2013, the public welfare requiring it.